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Patent and Trademark Office

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TS

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/595,557 06/14/00 DIXON

R	226/132 EXAMINER
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022249
LYON & LYON LLP
SUITE 4700
633 WEST FIFTH STREET
LOS ANGELES CA 90071-2066

TM02/0125

ART UNIT/INKS	HAPER, D, M
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2682

DATE MAILED: 01/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Regards,

Marsha D. Banks-Harold
Marsha D. Banks-Harold

DeW

Office Action Summary

Application No.

09/595,557

Applicant(s)

DIXON, ROBERT C.

Examiner

Marsha D. Banks-Harold

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. ***Claims 22 and 24-25*** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **claim 22**, the claim dependency is not clear since there is not a limitation "the multiple user wireless communication system" in claim 17. Therefore, for the purpose of this rejection, the examiner has assumed that claim 22 depends from claim 21 since claim 21 recites the limitation "the multiple user wireless communication system".

Regarding **claims 24 and 25**, the claim dependency is not clear since the "wireless communication system" of claim 19 already addresses the newly presented limitations. Therefore, for the purpose of this rejection, the examiner has assumed that claims 24 and 25 depend from claim 23.

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Reissue Applications

2. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed.

See 37 CFR 1.178.

Claims 21-25 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

The reissue claims 21-23 are broad or broader than the canceled or amended claim in all aspects, the recapture rule bars the claim since the subject matter relating to the details of the first and second frequencies as well as the second code has been canceled.

The reissue claims 24-25 are broad or broader than the canceled or amended claim in all aspects, the recapture rule bars the claim since the subject matter relating to the details of the first and second codes.

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Conclusion

3. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks
Washington D.C. 20231

Or faxed to:

(703) 305-9051 (for formal communications intended for entry),

Or:

(703) 305-9508 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

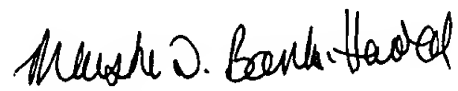
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

4. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Marsha D. Banks-Harold whose telephone number is
(703) 305-4379. The examiner can normally be reached on 6:30 a.m. - 5:00 p.m.
Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Vivian Chang can be reached on (703) 308-6739. The fax phone numbers
for the organization where this application or proceeding is assigned are (703) 308-6306
for regular communications and (703) 308-6306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is (703) 305-
4700.

Marsha D. Banks-Harold
January 23, 2001


MARSHA D. BANKS-HAROLD
PRIMARY EXAMINER